

AMENDED IN ASSEMBLY APRIL 5, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1193

Introduced by Assembly Member Leonard

February 26, 1999

An act to amend Sections 290~~—and 290.5~~, 290.5, and 4852.03 of the Penal Code, relating to sex offender registration.

LEGISLATIVE COUNSEL'S DIGEST

AB 1193, as amended, Leonard. Sex offender registration.

(1) Existing law requires certain persons, including any person convicted of any specified sexual offense, for the rest of his or her life while residing or located within California, to register with the chief of police or the sheriff, as specified, and with the chief of police of a campus of the University of California, the California State University, or community college if the person is residing or located upon the campus or in any of its facilities, within 5 working days of coming into, or changing his or her residence or location within, any city, county, or city and county, or campus. Any person required to register as a sex offender pursuant to this provision is also required to update his or her registration information at least annually. The failure to register or update the registration is a crime.

This bill would make these provisions applicable to out-of-state residents who are employed in California or ~~attending the University of California, the California State University, or a community college~~ *enrolled in an educational*

institution on a full-time or part-time basis. The bill also would require any person who is required to register as a sex offender who has more than one residence address or location at which he or she regularly resides or is located, to register in each of the jurisdictions in which he or she regularly resides or is located, and when all of the addresses or locations are within the same jurisdiction, to provide the registering authority with all of the addresses or locations where he or she regularly resides or is located. By expanding the scope of an existing crime and increasing the registration duties of local law enforcement officials, this bill would impose a state-mandated local program.

(2) Under existing law, the registration information required to be provided pursuant to the above provisions in (1) includes copies of adequate proof of residence. If the person required to register does not have any proof of residence, he or she shall be allowed to register, but is required to furnish proof of residence within 30 days. The failure to furnish proof of residence within the 30-day period is a misdemeanor punishable by imprisonment in a county jail for not exceeding 6 months, or by a fine not exceeding \$1,000, or both that imprisonment and fine.

This bill would provide that the failure to furnish proof of residence within the 30-day period is a misdemeanor punishable by imprisonment in a county jail for not exceeding one year. By increasing the punishment for a crime, this bill would impose a state-mandated local program.

(3) Existing law authorizes a person required to register as a sex offender pursuant to the provisions in (1) to petition for a certificate of rehabilitation and pardon, and relieves that person, except for specified persons, of any further duty to register as a sex offender upon obtaining a certificate of rehabilitation, unless the person is in custody, on parole, or on probation. Existing law requires the persons excepted from operation of this provision to obtain a full pardon before they may be relieved of the duty to register as a sex offender.

Under existing law, the period of rehabilitation begins to run upon the discharge of, and constitutes a period of 5 years plus an additional period of time which, in general, is 2 additional years for offenses that do not carry a life sentence.



This bill would provide that the period of rehabilitation is the 5 years plus 5 additional years in the case of a person convicted of an offense for which sex offender registration is required.

This bill would make technical changes to these provisions that conform to other provisions of law and delete obsolete cross-references to other provisions of law.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 290 of the Penal Code is
2 amended to read:
3 290. (a) (1) (A) Every person described in
4 paragraph (2), for the rest of his or her life while residing
5 in, or, if he or she has no residence, while located within
6 California, or while attending school or working in
7 California, as described in subparagraph (G), shall be
8 required to register with the chief of police of the city in
9 which he or she is residing, or if he or she has no residence,
10 is located, or the sheriff of the county if he or she is
11 residing, or if he or she has no residence, is located, in an
12 unincorporated area or city that has no police

1 department, and, additionally, with the chief of police of
2 a campus of the University of California, the California
3 State University, or community college if he or she is
4 residing, or if he or she has no residence, is located upon
5 the campus or in any of its facilities, within five working
6 days of coming into, or changing his or her residence or
7 location within, any city, county, or city and county, or
8 campus in which he or she temporarily resides, or, if he
9 or she has no residence, is located.

10 (B) If the person who is registering has more than one
11 residence address or location at which he or she regularly
12 resides or is located, he or she shall register in accordance
13 with subparagraph (A) in each of the jurisdictions in
14 which he or she regularly resides or is located. If all of the
15 addresses or locations are within the same jurisdiction,
16 the person shall provide the registering authority with all
17 of the addresses or locations where he or she regularly
18 resides or is located.

19 (C) If the person who is registering has no residence
20 address, he or she shall update his or her registration no
21 less than once every 90 days in addition to the
22 requirement in subparagraph (A), on a form as may be
23 required by the Department of Justice, with the entity or
24 entities described in subparagraph (A) in whose
25 jurisdiction he or she is located at the time he or she is
26 updating the registration.

27 (D) Beginning on his or her first birthday following
28 registration or change of address, the person shall be
29 required to register annually, within five working days of
30 his or her birthday, to update his or her registration with
31 the entities described in subparagraph (A), including,
32 verifying his or her name and address, or temporary
33 location, on a form as may be required by the
34 Department of Justice.

35 (E) In addition, every person who ~~is~~ *has ever been*
36 *adjudicated* a sexually violent predator, as defined in
37 Section 6600 of the Welfare and Institutions Code, shall,
38 after his or her release from custody, verify his or her
39 address no less than once every 90 days in a manner
40 established by the Department of Justice.

(F) No entity shall require a person to pay a fee to register or update his or her registration pursuant to this section. The registering agency shall submit registrations, including annual updates or changes of address, directly into the Department of Justice Violent Crime Information Network (VCIN).

(G) Persons described in paragraph (2) who are out-of-state residents employed in California on a full-time or part-time basis, with or without compensation, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, shall register in accordance with subparagraph (A). Persons described in paragraph (2) who are out-of-state residents—~~attending the University of California, the California State University, or a community college on a full-time or~~ *enrolled in any educational institution in California as defined in Section 22129 of the Education Code, on a full-time or part-time basis* shall register in accordance with subparagraph (A). The place where the out-of-state resident is located, for purposes of registration, shall be the place where the person is employed or attending school. The out-of-state resident subject to this subparagraph shall, in addition to the information required pursuant to subdivision (e), provide the registering authority with the name of his or her place of employment or the name of the school attended in California, and his or her address or location in his or her state of residence.

(2) The following persons shall be required to register pursuant to paragraph (1):

(A) Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of a violation of Section 207 or 209 committed with intent to violate Section 261, 286, 288, 288a, or 289, Section 220, except assault to commit mayhem, Section 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, or paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, 266c, subdivision (b) of Section

1 266h, subdivision (b) of Section 266i, 266j, 267, 269, 285,
2 286, 288, 288a, 288.5, or 289, subdivision (b), (c), or (d) of
3 Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6,
4 former Section 647a, subdivision (c) of Section 653f,
5 subdivision 1 or 2 of Section 314, any offense involving
6 lewd or lascivious conduct under Section 272, or any
7 felony violation of Section 288.2; or any person who since
8 that date has been or is hereafter convicted of the attempt
9 to commit any of the above-mentioned offenses.

10 (B) Any person who, since July 1, 1944, has been or
11 hereafter is released, discharged, or paroled from a penal
12 institution where he or she was confined because of the
13 commission or attempted commission of one of the
14 offenses described in subparagraph (A).

15 (C) Any person who, since July 1, 1944, has been or
16 hereafter is determined to be a mentally disordered sex
17 offender under Article 1 (commencing with Section
18 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare
19 and Institutions Code or any person who has been found
20 guilty in the guilt phase of a trial for an offense for which
21 registration is required by this section but who has been
22 found not guilty by reason of insanity in the sanity phase
23 of the trial.

24 (D) Any person who, since July 1, 1944, has been, or is
25 hereafter convicted in any other court, including any
26 state, federal, or military court, of any offense which, if
27 committed or attempted in this state, would have been
28 punishable as one or more of the offenses described in
29 subparagraph (A) or any person ordered by any other
30 court, including any state, federal, or military court, to
31 register as a sex offender for any offense, if the court
32 found at the time of conviction or sentencing that the
33 person committed the offense as a result of sexual
34 compulsion or for purposes of sexual gratification.

35 (E) Any person ordered by any court to register
36 pursuant to this section for any offense not included
37 specifically in this section if the court finds at the time of
38 conviction or sentencing that the person committed the
39 offense as a result of sexual compulsion or for purposes of
40 sexual gratification. The court shall state on the record the

1 reasons for its findings and the reasons for requiring
2 registration.

3 (F) (i) Notwithstanding any other subdivision, a
4 person who was convicted before January 1, 1976, under
5 subdivision (a) of Section 286, or Section 288a, shall not be
6 required to register pursuant to this section for that
7 conviction if the conviction was for conduct between
8 consenting adults that was decriminalized by Chapter 71
9 of the Statutes of 1975 or Chapter 1139 of the Statutes of
10 1976. The Department of Justice shall remove that person
11 from the Sex Offender Registry, and the person is
12 discharged from his or her duty to register pursuant to the
13 following procedure:

14 (I) The person submits to the Department of Justice
15 official documentary evidence, including court records or
16 police reports, which demonstrate that the person's
17 conviction pursuant to either of those sections was for
18 conduct between consenting adults that was
19 decriminalized; or

20 (II) The person submits to the department a
21 declaration stating that the person's conviction pursuant
22 to either of those sections was for consensual conduct
23 between adults that has been decriminalized. The
24 declaration shall be confidential and not a public record,
25 and shall include the person's name, address, telephone
26 number, date of birth, and a summary of the
27 circumstances leading to the conviction, including the
28 date of the conviction and county of the occurrence.

29 (III) The department shall determine whether the
30 person's conviction was for conduct between consensual
31 adults that has been decriminalized. If the conviction was
32 for consensual conduct between adults that has been
33 decriminalized, and the person has no other offenses for
34 which he or she is required to register pursuant to this
35 section, the department shall, within 60 days of receipt of
36 those documents, notify the person that he or she is
37 relieved of the duty to register, and shall notify the local
38 law enforcement agency with which the person is
39 registered that he or she has been relieved of the duty to
40 register. The local law enforcement agency shall remove

1 the person's registration from its files within 30 days of
2 receipt of notification. If the documentary or other
3 evidence submitted is insufficient to establish the
4 person's claim, the department shall, within 60 days of
5 receipt of those documents, notify the person that his or
6 her claim cannot be established, and that the person shall
7 continue to register pursuant to this section. The
8 department shall provide, upon the person's request, any
9 information relied upon by the department in making its
10 determination that the person shall continue to register
11 pursuant to this section. Any person whose claim has been
12 denied by the department pursuant to this clause may
13 petition the court to appeal the department's denial of
14 the person's claim.

15 (ii) On or before July 1, 1998, the department shall
16 make a report to the Legislature concerning the status of
17 persons who may come under the provisions of this
18 subparagraph, including the number of persons who
19 were convicted before January 1, 1976, under subdivision
20 (a) of Section 286 or Section 288a and are required to
21 register under this section, the average age of these
22 persons, the number of these persons who have any
23 subsequent convictions for a registerable sex offense, and
24 the number of these persons who have sought successfully
25 or unsuccessfully to be relieved of their duty to register
26 under this section.

27 (b) (1) Any person who is released, discharged, or
28 paroled from a jail, state or federal prison, school, road
29 camp, or other institution where he or she was confined
30 because of the commission or attempted commission of
31 one of the offenses specified in subdivision (a) or is
32 released from a state hospital to which he or she was
33 committed as a mentally disordered sex offender under
34 Article 1 (commencing with Section 6300) of Chapter 2
35 of Part 2 of Division 6 of the Welfare and Institutions
36 Code, shall, prior to discharge, parole, or release, be
37 informed of his or her duty to register under this section
38 by the official in charge of the place of confinement or
39 hospital, and the official shall require the person to read
40 and sign any form that may be required by the

1 Department of Justice, stating that the duty of the person
2 to register under this section has been explained to the
3 person. The official in charge of the place of confinement
4 or hospital shall obtain the address where the person
5 expects to reside upon his or her discharge, parole, or
6 release and shall report the address to the Department of
7 Justice.

8 (2) The official in charge of the place of confinement
9 or hospital shall give one copy of the form to the person
10 and shall send one copy to the Department of Justice and
11 one copy to the appropriate law enforcement agency or
12 agencies having jurisdiction over the place the person
13 expects to reside upon discharge, parole, or release. If the
14 conviction that makes the person subject to this section
15 is a felony conviction, the official in charge shall, not later
16 than 45 days prior to the scheduled release of the person,
17 send one copy to the appropriate law enforcement
18 agency or agencies having local jurisdiction where the
19 person expects to reside upon discharge, parole, or
20 release; one copy to the prosecuting agency that
21 prosecuted the person; and one copy to the Department
22 of Justice. The official in charge of the place of
23 confinement shall retain one copy.

24 (c) Any person who is convicted in this state of the
25 commission or attempted commission of any of the
26 offenses specified in subdivision (a) and who is released
27 on probation, granted conditional release without
28 supervised probation, or discharged upon payment of a
29 fine shall, prior to release or discharge, be informed of the
30 duty to register under this section by the probation
31 department, and a probation officer shall require the
32 person to read and sign any form that may be required by
33 the Department of Justice, stating that the duty of the
34 person to register under this section has been explained
35 to him or her. The probation officer shall obtain the
36 address where the person expects to reside upon release
37 or discharge and shall report within three days the
38 address to the Department of Justice. The probation
39 officer shall give one copy of the form to the person, send
40 one copy to the Department of Justice, and forward one

1 copy to the appropriate law enforcement agency or
2 agencies having local jurisdiction where the person
3 expects to reside upon his or her discharge, parole, or
4 release.

5 (d) (1) Any person who, on or after January 1, 1986,
6 is discharged or paroled from the Department of the
7 Youth Authority to the custody of which he or she was
8 committed after having been adjudicated a ward of the
9 juvenile court pursuant to Section 602 of the Welfare and
10 Institutions Code because of the commission or
11 attempted commission of any offense described in
12 paragraph (3) shall be subject to registration under the
13 procedures of this section.

14 (2) Any person who is discharged or paroled from a
15 facility in another state that is equivalent to the
16 Department of the Youth Authority, to the custody of
17 which he or she was committed because of an offense
18 which, if committed or attempted in this state, would
19 have been punishable as one or more of the offenses
20 described in paragraph (3), shall be subject to
21 registration under the procedures of this section.

22 (3) Any person described in this subdivision who
23 committed an offense in violation of any of the following
24 provisions shall be required to register pursuant to this
25 section:

26 (A) Assault with intent to commit rape, sodomy, oral
27 copulation, or any violation of Section 264.1, 288, or 289
28 under Section 220.

29 (B) Any offense defined in paragraph (1), (2), (3),
30 (4), or (6) of subdivision (a) of Section 261, Section 264.1,
31 266c, or 267, paragraph (1) of subdivision (b) of, or
32 subdivision (c) or (d) of, Section 286, Section 288 or 288.5,
33 paragraph (1) of subdivision (b) of, or subdivision (c) or
34 (d) of, Section 288a, subdivision (a) of Section 289, or
35 Section 647.6.

36 (C) A violation of Section 207 or 209 committed with
37 the intent to violate Section 261, 286, 288, 288a, or 289.

38 (4) Prior to discharge or parole from the Department
39 of the Youth Authority, any person who is subject to
40 registration under this subdivision shall be informed of

1 the duty to register under the procedures set forth in this
2 section. Department of the Youth Authority officials shall
3 transmit the required forms and information to the
4 Department of Justice.

5 (5) All records specifically relating to the registration
6 in the custody of the Department of Justice, law
7 enforcement agencies, and other agencies or public
8 officials shall be destroyed when the person who is
9 required to register has his or her records sealed under
10 the procedures set forth in Section 781 of the Welfare and
11 Institutions Code. This subdivision shall not be construed
12 as requiring the destruction of other criminal offender or
13 juvenile records relating to the case that are maintained
14 by the Department of Justice, law enforcement agencies,
15 the juvenile court, or other agencies and public officials
16 unless ordered by a court under Section 781 of the
17 Welfare and Institutions Code.

18 (e) (1) On or after January 1, 1998, upon
19 incarceration, placement, or commitment, or prior to
20 release on probation, any person who is required to
21 register under this section shall preregister. The
22 preregistering official shall be the admitting officer at the
23 place of incarceration, placement, or commitment, or the
24 probation officer if the person is to be released on
25 probation. The preregistration shall consist of all of the
26 following:

27 (A) A preregistration statement in writing, signed by
28 the person, giving information that may be required by
29 the Department of Justice.

30 (B) The fingerprints and photograph of the person.

31 (C) Any person who is preregistered pursuant to this
32 subdivision is required to be preregistered only once.

33 (2) A person described in paragraph (2) of subdivision
34 (a) shall register, or reregister if the person has previously
35 registered, upon release from incarceration, placement,
36 or commitment, pursuant to paragraph (1) of subdivision
37 (a). The registration shall consist of all of the following:

38 (A) A statement in writing signed by the person,
39 giving information as may be required by the
40 Department of Justice.

1 (B) The fingerprints and photograph of the person.

2 (C) The license plate number of any vehicle owned
3 by, regularly driven by, or registered in the name of the
4 person.

5 (D) Notice to the person that, in addition to the
6 requirements of paragraph (4), he or she may have a duty
7 to register in any other state where he or she may
8 relocate.

9 (E) Copies of adequate proof of residence, which shall
10 be limited to a California driver's license, California
11 identification card, recent rent or utility receipt, printed
12 personalized checks or other recent banking documents
13 showing that person's name and address, or any other
14 information that the registering official believes is
15 reliable. If the person has no residence and no reasonable
16 expectation of obtaining a residence in the foreseeable
17 future, the person shall so advise the registering official
18 and shall sign a statement provided by the registering
19 official stating that fact. Upon presentation of proof of
20 residence to the registering official or a signed statement
21 that the person has no residence, the person shall be
22 allowed to register. If the person claims that he or she has
23 a residence but does not have any proof of residence, he
24 or she shall be allowed to register but shall furnish proof
25 of residence within 30 days of the day he or she is allowed
26 to register.

27 (3) Within three days thereafter, the preregistering
28 official or the registering law enforcement agency or
29 agencies shall forward the statement, fingerprints,
30 photograph, and vehicle license plate number, if any, to
31 the Department of Justice.

32 (f) (1) If any person who is required to register
33 pursuant to this section changes his or her residence
34 address or location, whether within the jurisdiction in
35 which he or she is currently registered or to a new
36 jurisdiction inside or outside the state, the person shall
37 inform, in writing within five working days, the law
38 enforcement agency or agencies with which he or she last
39 registered of the new address or location. The law
40 enforcement agency or agencies shall, within three days

1 after receipt of this information, forward a copy of the
2 change of address or location information to the
3 Department of Justice. The Department of Justice shall
4 forward appropriate registration data to the law
5 enforcement agency or agencies having local jurisdiction
6 of the new place of residence or location.

7 (2) If the person's new address is in a Department of
8 the Youth Authority facility or a state prison or state
9 mental institution, an official of the place of incarceration,
10 placement, or commitment shall, within 90 days of
11 receipt of the person, forward the registrant's change of
12 address information to the Department of Justice. The
13 agency need not provide a physical address for the
14 registrant but shall indicate that he or she is serving a
15 period of incarceration or commitment in a facility under
16 the agency's jurisdiction. This paragraph shall apply to
17 persons received in a Department of the Youth Authority
18 facility or a state prison or state mental institution on or
19 after January 1, 1999. The Department of Justice shall
20 forward the change of address information to the agency
21 with which the person last registered.

22 (3) If any person who is required to register pursuant
23 to this section changes his or her name, the person shall
24 inform, in person, the law enforcement agency or
25 agencies with which he or she is currently registered
26 within five working days. The law enforcement agency or
27 agencies shall forward a copy of this information to the
28 Department of Justice within three days of its receipt.

29 (g) (1) Any person who is required to register under
30 this section based on a misdemeanor conviction who
31 willfully violates any requirement of this section is guilty
32 of a misdemeanor punishable by imprisonment in a
33 county jail not exceeding one year.

34 (2) Except as provided in paragraphs (5) and (7), any
35 person who is required to register under this section
36 based on a felony conviction who willfully violates any
37 requirement of this section or who has a prior conviction
38 for the offense of failing to register under this section and
39 who subsequently and willfully violates any requirement
40 of this section is guilty of a felony and shall be punished

1 by imprisonment in the state prison for 16 months, or two
2 or three years.

3 If probation is granted or if the imposition or execution
4 of sentence is suspended, it shall be a condition of the
5 probation or suspension that the person serve at least 90
6 days in a county jail. The penalty described in this
7 paragraph shall apply whether or not the person has been
8 released on parole or has been discharged from parole.

9 (3) Any person determined to be a mentally
10 disordered sex offender or who has been found guilty in
11 the guilt phase of trial for an offense for which registration
12 is required under this section, but who has been found not
13 guilty by reason of insanity in the sanity phase of the trial,
14 who willfully violates any requirement of this section is
15 guilty of a misdemeanor and shall be punished by
16 imprisonment in a county jail not exceeding one year. For
17 any second or subsequent willful violation of any
18 requirement of this section, the person is guilty of a felony
19 and shall be punished by imprisonment in the state prison
20 for 16 months, or two or three years.

21 (4) If, after discharge from parole, the person is
22 convicted of a felony as specified in this subdivision, he or
23 she shall be required to complete parole of at least one
24 year, in addition to any other punishment imposed under
25 this subdivision. A person convicted of a felony as
26 specified in this subdivision may be granted probation
27 only in the unusual case where the interests of justice
28 would best be served. When probation is granted under
29 this paragraph, the court shall specify on the record and
30 shall enter into the minutes the circumstances indicating
31 that the interests of justice would best be served by the
32 disposition.

33 (5) Any person who has ever been adjudicated a
34 sexually violent predator, as defined in Section 6600 of the
35 Welfare and Institutions Code, and who fails to verify his
36 or her registration every 90 days as required pursuant to
37 subparagraph (D) of paragraph (1) of subdivision (a),
38 shall be punished by imprisonment in the state prison, or
39 in a county jail not exceeding one year.

1 (6) Except as otherwise provided in paragraph (5),
2 and in addition to any other penalty imposed under this
3 subdivision, any person who is required pursuant to
4 subparagraph (B) of paragraph (1) of subdivision (a) to
5 update his or her registration every 90 days and willfully
6 fails to update his or her registration is guilty of a
7 misdemeanor and shall be punished by imprisonment in
8 a county jail not exceeding six months. Any subsequent
9 violation of this requirement that persons described in
10 subparagraph (B) of paragraph (1) of subdivision (a)
11 shall update their registration every 90 days is also a
12 misdemeanor and shall be punished by imprisonment in
13 a county jail not exceeding six months.

14 (7) Any person who fails to provide proof of residence
15 as required by subparagraph (E) of paragraph (2) of
16 subdivision (e), regardless of the offense upon which the
17 duty to register is based, is guilty of a misdemeanor
18 punishable by imprisonment in a county jail not
19 exceeding one year.

20 (8) Any person who is required to register under this
21 section who willfully violates any requirement of this
22 section is guilty of a continuing offense.

23 (h) Whenever any person is released on parole or
24 probation and is required to register under this section
25 but fails to do so within the time prescribed, the parole
26 authority, the Youthful Offender Parole Board, or the
27 court, as the case may be, shall order the parole or
28 probation of the person revoked. For purposes of this
29 subdivision, "parole authority" has the same meaning as
30 described in Section 3000.

31 (i) Except as provided in subdivisions (m) and (n) and
32 Section 290.4, the statements, photographs, and
33 fingerprints required by this section shall not be open to
34 inspection by the public or by any person other than a
35 regularly employed peace officer or other law
36 enforcement officer.

37 (j) In any case in which a person who would be
38 required to register pursuant to this section for a felony
39 conviction is to be temporarily sent outside the institution
40 where he or she is confined on any assignment within a

1 city or county including firefighting, disaster control, or
2 of whatever nature the assignment may be, the local law
3 enforcement agency having jurisdiction over the place or
4 places where the assignment shall occur shall be notified
5 within a reasonable time prior to removal from the
6 institution. This subdivision shall not apply to any person
7 who is temporarily released under guard from the
8 institution where he or she is confined.

9 (k) As used in this section, “mentally disordered sex
10 offender” includes any person who has been determined
11 to be a sexual psychopath or a mentally disordered sex
12 offender under any provision which, on or before January
13 1, 1976, was contained in Division 6 (commencing with
14 Section 6000) of the Welfare and Institutions Code.

15 (l) (1) Every person who, prior to January 1, 1997, is
16 required to register under this section, shall be notified
17 whenever he or she next reregisters of the reduction of
18 the registration period from 14 to 5 working days. This
19 notice shall be provided in writing by the registering
20 agency or agencies. Failure to receive this notification
21 shall be a defense against the penalties prescribed by
22 subdivision (g) if the person did register within 14 days.

23 (2) Every person who, as a sexually violent predator,
24 as defined in Section 6600 of the Welfare and Institutions
25 Code, is required to verify his or her registration every 90
26 days, shall be notified wherever he or she next registers
27 of his or her increased registration obligations. This notice
28 shall be provided in writing by the registering agency or
29 agencies. Failure to receive this notice shall be a defense
30 against the penalties prescribed by paragraph (5) of
31 subdivision (g).

32 (m) (1) When a peace officer reasonably suspects,
33 based on information that has come to his or her attention
34 through information provided by any peace officer or
35 member of the public, that a child or other person may
36 be at risk from a sex offender convicted of a crime listed
37 in paragraph (1) of subdivision (a) of Section 290.4, a law
38 enforcement agency may, notwithstanding any other
39 provision of law, provide any of the information specified
40 in paragraph (4) of this subdivision about that registered

1 sex offender that the agency deems relevant and
2 necessary to protect the public, to the following persons,
3 agencies, or organizations the offender is likely to
4 encounter, including, but not limited to, the following:

5 (A) Public and private educational institutions, day
6 care establishments, and establishments and
7 organizations that primarily serve individuals likely to be
8 victimized by the offender.

9 (B) Other community members at risk.

10 (2) The law enforcement agency may authorize
11 persons and entities who receive the information
12 pursuant to paragraph (1) to disclose information to
13 additional persons only if the agency does the following:

14 (A) Determines that all conditions set forth in
15 paragraph (1) have been satisfied regarding disclosure to
16 the additional persons.

17 (B) Identifies the appropriate scope of further
18 disclosure.

19 (3) Persons notified pursuant to paragraph (1) may
20 disclose the information provided by the law
21 enforcement agency in the manner and to the extent
22 authorized by the law enforcement agency.

23 (4) The information that may be disclosed pursuant to
24 this section includes the following:

25 (A) The offender's full name.

26 (B) The offender's known aliases.

27 (C) The offender's gender.

28 (D) The offender's race.

29 (E) The offender's physical description.

30 (F) The offender's photograph.

31 (G) The offender's date of birth.

32 (H) Crimes resulting in registration under this section.

33 (I) The offender's address, which must be verified
34 prior to publication.

35 (J) Description and license plate number of offender's
36 vehicles or vehicles the offender is known to drive.

37 (K) Type of victim targeted by the offender.

38 (L) Relevant parole or probation conditions, such as
39 one prohibiting contact with children.

1 (M) Dates of crimes resulting in classification under
2 this section.

3 (N) Date of release from confinement.

4 However, information disclosed pursuant to this
5 subdivision shall not include information that would
6 identify the victim.

7 (5) If a law enforcement agency discloses information
8 pursuant to this subdivision, it shall include, with the
9 disclosure, a statement that the purpose of the release of
10 the information is to allow members of the public to
11 protect themselves and their children from sex offenders.

12 (6) For purposes of this section, “likely to encounter”
13 means both of the following:

14 (A) That the agencies, organizations, or other
15 community members are in a location or in close
16 proximity to a location where the offender lives or is
17 employed, or that the offender visits or is likely to visit on
18 a regular basis.

19 (B) The types of interaction that ordinarily occur at
20 that location and other circumstances indicate that
21 contact with the offender is reasonably probable.

22 (7) For purposes of this section, “reasonably suspects”
23 means that it is objectively reasonable for a peace officer
24 to entertain a suspicion, based upon facts that could cause
25 a reasonable person in a like position, drawing when
26 appropriate on his or her training and experience, to
27 suspect that a child or other person is at risk.

28 (8) For purposes of this section, “at risk” means a
29 person is or may be exposed to a risk of becoming a victim
30 of a sex offense committed by the offender.

31 (9) A law enforcement agency may continue to
32 disclose information on an offender under this
33 subdivision for as long as the offender is included in
34 Section 290.4.

35 (n) In addition to the procedures set forth elsewhere
36 in this section, a designated law enforcement entity may
37 advise the public of the presence of high-risk sex
38 offenders in its community pursuant to this subdivision.

39 (1) For purposes of this subdivision:

1 (A) A high-risk sex offender is a person who has been
2 convicted of an offense specified in paragraph (1) of
3 subdivision (a) of Section 290.4 and also meets one of the
4 following criteria:

5 (i) Has been convicted of three or more violent sex
6 offenses, at least two of which were brought and tried
7 separately.

8 (ii) Has been convicted of two violent sex offenses and
9 one or more violent nonsex offenses, at least two of which
10 were brought and tried separately.

11 (iii) Has been convicted of one violent sex offense and
12 two or more violent nonsex offenses, at least two of which
13 were brought and tried separately.

14 (iv) Has been convicted of either two violent sex
15 offenses or one violent sex offense and one violent nonsex
16 offense, at least two of which were brought and tried
17 separately, and has been arrested on separate occasions
18 for three or more violent sex offenses, violent nonsex
19 offenses, or associated offenses.

20 (v) Has been adjudicated a sexually violent predator
21 pursuant to Article 4 (commencing with Section 6600) of
22 Chapter 2 of Part 2 of Division 6 of the Welfare and
23 Institutions Code.

24 (B) A violent sex offense means any offense defined in
25 Section 220, except attempt to commit mayhem, 261,
26 264.1, 286, 288, 288a, 288.5, 289, or 647.6, or infliction of
27 great bodily injury during the commission of a sex offense,
28 as provided in Section 12022.8.

29 (C) A violent nonsex offense means any offense
30 defined in Section 187, subdivision (a) of Section 192, or
31 Section 203, 206, 207, or 236, provided that the offense is
32 a felony, subdivision (a) of Section 273a, Section 273d or
33 451, or attempted murder, as defined in Sections 187 and
34 664.

35 (D) An associated offense means any offense defined
36 in Section 243.4, provided that the offense is a felony,
37 Section 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, 311.7, or 314,
38 Section 459, provided the offense is of the first degree,
39 Section 597 or 646.9, subdivision (d), (h), or (i) of Section
40 647, Section 653m, or infliction of great bodily injury

1 during the commission of a felony, as defined in Section
2 12022.7.

3 (E) For purposes of subparagraphs (B) to (D),
4 inclusive, an arrest or conviction for the statutory
5 predecessor of any of the enumerated offenses, or an
6 arrest or conviction in any other jurisdiction for any
7 offense which, if committed or attempted in this state,
8 would have been punishable as one or more of the
9 offenses described in those subparagraphs, is to be
10 considered in determining whether an offender is a
11 high-risk sex offender.

12 (F) For purposes of subparagraphs (B) to (D),
13 inclusive, an arrest as a juvenile or an adjudication as a
14 ward of the juvenile court within the meaning of Section
15 602 of the Welfare and Institutions Code for any of the
16 offenses described in those subparagraphs is to be
17 considered in determining whether an offender is a
18 high-risk sex offender.

19 (G) Notwithstanding subparagraphs (A) to (D),
20 inclusive, an offender shall not be considered to be a
21 high-risk sex offender if either of the following apply:

22 (i) The offender's most recent conviction or arrest for
23 an offense described in subparagraphs (B) to (D),
24 inclusive, occurred more than five years prior to the
25 high-risk assessment by the Department of Justice,
26 excluding periods of confinement.

27 (ii) The offender notifies the Department of Justice,
28 on a form approved by the department and available at
29 any sheriff's office, that he or she has not been convicted
30 in the preceding 15 years, excluding periods of
31 confinement, of an offense for which registration is
32 required under paragraph (2) of subdivision (a), and the
33 department is able, upon exercise of reasonable diligence,
34 to verify the information provided in paragraph (2).

35 (H) "Confinement" means confinement in a jail,
36 prison, school, road camp, or other penal institution,
37 confinement in a state hospital to which the offender was
38 committed as a mentally disordered sex offender under
39 Article 1 (commencing with Section 6300) of Chapter 2
40 of Part 2 of Division 6 of the Welfare and Institutions

1 Code, or confinement in a facility designated by the
2 Director of Mental Health to which the offender was
3 committed as a sexually violent predator under Article 4
4 (commencing with Section 6600) of Chapter 2 of Part 2
5 of Division 6 of the Welfare and Institutions Code.

6 (I) “Designated law enforcement entity” means any
7 of the following: municipal police department; sheriff’s
8 department; district attorney’s office; county probation
9 department; Department of Justice; Department of
10 Corrections; Department of the Youth Authority;
11 Department of the California Highway Patrol; or the
12 police department of any campus of the University of
13 California or California State University, or community
14 college.

15 (2) The Department of Justice shall continually search
16 the records provided to it pursuant to subdivision (b) and
17 identify, on the basis of those records, high-risk sex
18 offenders. Four times each year, the department shall
19 provide to each chief of police and sheriff in the state, and
20 to any other designated law enforcement entity upon
21 request, the following information regarding each
22 identified high-risk sex offender: full name; known aliases;
23 gender; race; physical description; photograph; date of
24 birth; and crimes resulting in classification under this
25 section.

26 (3) The Department of Justice and any designated law
27 enforcement entity to which notice has been given
28 pursuant to paragraph (2) may cause to be made public,
29 by whatever means the agency deems necessary to
30 ensure the public safety, based upon information
31 available to the agency concerning a specific person,
32 including, but not limited to, the information described
33 in paragraph (2); the offender’s address, which shall be
34 verified prior to publication; description and license plate
35 number of the offender’s vehicles or vehicles the offender
36 is known to drive; type of victim targeted by the offender;
37 relevant parole or probation conditions, such as one
38 prohibiting contact with children; dates of crimes
39 resulting in classification under this section; and date of

1 release from confinement; but excluding information
2 that would identify the victim.

3 (4) Notwithstanding any other provision of law, any
4 person described in paragraph (2) of subdivision (p) who
5 receives information from a designated law enforcement
6 entity pursuant to paragraph (3) of subdivision (n) may
7 disclose that information in the manner and to the extent
8 authorized by the law enforcement entity.

9 (o) Agencies disseminating information to the public
10 pursuant to Section 290.4 shall maintain records of those
11 persons requesting to view the CD-ROM or other
12 electronic media for a minimum of five years. Agencies
13 disseminating information to the public pursuant to
14 subdivision (n) shall maintain records of the means and
15 dates of dissemination for a minimum of five years.

16 (p) (1) Any law enforcement agency and employees
17 of any law enforcement agency shall be immune from
18 liability for good faith conduct under this section. For the
19 purposes of this section, “law enforcement agency”
20 means the Attorney General of California, every district
21 attorney, and every state or local agency expressly
22 authorized by statute to investigate or prosecute law
23 violators.

24 (2) Any public or private educational institution, day
25 care facility, or any child care custodian described in
26 Section 11165.7, or any employee of a public or private
27 educational institution or day care facility which in good
28 faith disseminates information as authorized pursuant to
29 paragraph (3) of subdivision (m) or paragraph (4) of
30 subdivision (n) that is provided by a law enforcement
31 agency or an employee of a law enforcement agency shall
32 be immune from civil liability.

33 (q) Any person who uses information disclosed
34 pursuant to this section to commit a felony shall be
35 punished, in addition and consecutive to any other
36 punishment, by a five-year term of imprisonment in the
37 state prison. Any person who uses information disclosed
38 pursuant to this section to commit a misdemeanor shall be
39 subject to, in addition to any other penalty or fine

1 imposed, a fine of not less than five hundred dollars
2 (\$500) and not more than one thousand dollars (\$1,000).

3 (r) The registration and public notification provisions
4 of this section are applicable to every person described in
5 this section, without regard to when his or her crimes
6 were committed or his or her duty to register pursuant to
7 this section arose, and to every offense described in this
8 section, regardless of when it was committed.

9 SEC. 2. Section 290.5 of the Penal Code is amended to
10 read:

11 290.5. (a) A person required to register under
12 Section 290 may initiate a proceeding under Chapter 3.5
13 (commencing with Section 4852.01) of Title 6 of Part 3,
14 and, except persons described in paragraph (1) of
15 subdivision (a) of Section 290.4, upon obtaining a
16 certificate of rehabilitation, shall be relieved of any
17 further duty to register under Section 290 if not in
18 custody, on parole, or on probation. This certificate shall
19 not relieve persons described in paragraph (1) of
20 subdivision (a) of Section 290.4 of the duty to register
21 under Section 290 and shall not relieve a petitioner of the
22 duty to register under Section 290 for any offense subject
23 to that section of which he or she is convicted in the
24 future.

25 (b) (1) Except as provided in paragraph (2), a person
26 described in paragraph (1) of subdivision (a) of Section
27 290.4 shall not be relieved of the duty to register until that
28 person has obtained a full pardon as provided in Chapter
29 1 (commencing with Section 4800) or Chapter 3
30 (commencing with Section 4850) of Title 6 of Part 3.

31 (2) The court, upon granting a petition for a certificate
32 of rehabilitation pursuant to Chapter 3.5 (commencing
33 with Section 4852.01) of Title 6 of Part 3, if the petition was
34 granted prior to January 1, 1998, may relieve a person of
35 the duty to register under Section 290 for a violation of
36 Section 288 or 288.5, provided that the person was granted
37 probation pursuant to subdivision (c) of Section 1203.066,
38 has complied with the provisions of Section 290 for a
39 continuous period of at least 10 years immediately

1 preceding the filing of the petition, and has not been
2 convicted of a felony during that period.

3 SEC. 3. *Section 4852.03 of the Penal Code is amended*
4 *to read:*

5 4852.03. (a) The period of rehabilitation shall begin
6 to run upon the discharge of the petitioner from custody
7 due to his or her completion of the term to which he or
8 she was sentenced or upon his or her release on parole or
9 probation, whichever is sooner. For purposes of this
10 chapter, the period of rehabilitation shall constitute five
11 years' residence in this state, plus a period of time
12 determined by the following rules:

13 (1) To the five years there shall be added four years in
14 the case of any person convicted of violating Section 187,
15 209, 219, 4500 or 12310 of this code, or subdivision (a) of
16 Section 1672 of the Military and Veterans Code, or of
17 committing any other offense which carries a life
18 sentence.

19 (2) *To the five years there shall be added five years in*
20 *the case of any person convicted of committing any*
21 *offense or attempted offense for which sex offender*
22 *registration is required pursuant to Section 290.*

23 (3) To the five years there shall be added two years in
24 the case of any person convicted of committing any
25 offense—~~which~~ *that* is not listed in paragraph (1) or
26 *paragraph* (2) and—~~which~~ *that* does not carry a life
27 sentence.

28 ~~(3)~~

29 (4) The trial court hearing the application for the
30 certificate of rehabilitation may, if the defendant was
31 ordered to serve consecutive sentences, order that his or
32 her statutory period of rehabilitation be extended for an
33 additional period of time which when combined with the
34 time already served will not exceed the period prescribed
35 by statute for the sum of the maximum penalties for all
36 the crimes.

37 ~~(4)~~

38 (5) Any person who was discharged after completion
39 of his or her term or was released on parole before May

1 13, 1943, is not subject to the periods of rehabilitation set
2 forth in these rules.

3 (b) Unless and until the period of rehabilitation, as
4 stipulated in this section, has passed, the petitioner shall
5 be ineligible to file his or her petition for a certificate of
6 rehabilitation with the court. Any certificate of
7 rehabilitation—~~which~~ *that* is issued and under which the
8 petitioner has not fulfilled the requirements of this
9 chapter shall be void.

10 (c) A change of residence within this state does not
11 interrupt the period of rehabilitation prescribed by this
12 section.

13 *SEC. 4.* No reimbursement is required by this act
14 pursuant to Section 6 of Article XIII B of the California
15 Constitution for certain costs that may be incurred by a
16 local agency or school district because in that regard this
17 act creates a new crime or infraction, eliminates a crime
18 or infraction, or changes the penalty for a crime or
19 infraction, within the meaning of Section 17556 of the
20 Government Code, or changes the definition of a crime
21 within the meaning of Section 6 of Article XIII B of the
22 California Constitution.

23 However, notwithstanding Section 17610 of the
24 Government Code, if the Commission on State Mandates
25 determines that this act contains other costs mandated by
26 the state, reimbursement to local agencies and school
27 districts for those costs shall be made pursuant to Part 7
28 (commencing with Section 17500) of Division 4 of Title
29 2 of the Government Code. If the statewide cost of the
30 claim for reimbursement does not exceed one million
31 dollars (\$1,000,000), reimbursement shall be made from
32 the State Mandates Claims Fund.